

# Government of the District of Columbia

## ZONING COMMISSION



Application No. 16262 of The National Association of Retired Federal Employees, on behalf of the Republic of Botswana, pursuant to 11 DCMR 1001, for permission under Section 1002 to locate a chancery in a DCOD/SP-1 District at premises 1531-33 New Hampshire Avenue, N.W. (Square 136, Lots 33 and 806).

**HEARING DATE:** July 16, 1997  
**DECISION DATE:** September 3, 1997

### ORDER

#### INTRODUCTION

This application was filed by The National Association of Retired Federal Employees on behalf of the Republic of Botswana, pursuant to Section 206 of the Foreign Missions Act (Title 11, Public Law 97-241, 92 Stat. 286, August 24, 1982) to locate its chancery at 1531-33 New Hampshire Avenue, N.W. (Square 136, Lots 33 and 806) in a DCOD/SP-1 District. The application was considered by the Board in accordance with the requirements of Chapter 10 of the Zoning Regulations. Chapter 10 was adopted by the Zoning Commission to implement Section 206 of the Foreign Missions Act. The public hearing was conducted as a rulemaking proceeding under Chapter 33 of the Supplemental Rules of Practice and Procedure before the Foreign Missions Board of Zoning Adjustment.

#### PROCEDURAL ISSUE

As a preliminary matter, the Office of Zoning informed the Board that the Notice of Proposed Rulemaking required by 11 DCMR Section 3340.9(c) had not been published in the D.C. Register. The Applicant requested a waiver of that provision, pursuant to the Board's authority under 11 DCMR Section 3301.1. That section allows the Board, for good cause shown, to waive its own rules, if

in the judgment of the Board the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. There are no parties to a chancery application.

The applicable law is found in D.C. Code Section 1-1506(a) (1992 Repl.). That section requires that, in a rulemaking proceeding, the agency publish notice of the proposed action not less than 30 days prior to the effective date of the proposed adoption, except as otherwise provided by the agency upon good cause found and published with the notice. That section also requires that interested persons be given an opportunity to submit data and views either orally or in writing, as may be specified by such notice. The Board finds that the above-referenced D.C. Code provision governing rulemaking notices does not prohibit a waiver of Section 3340.9(c).

The Board finds good cause for granting the requested waiver. In order to meet the 40-day deadline of Section 3340.9(c), the Notice of Proposed Rulemaking should have appeared in the June 6, 1997 issue of the D.C. Register. On that same date, the Board's public hearing notice was published in the D.C. Register. That notice included the date, time and location of the public hearing, the name of the applicants, the address of the subject property and the relief requested. Additionally, the public received notice in a variety of other ways. All required notices pursuant to Chapter 33 of the Zoning Regulations were given. Referrals were also made by the Office of Zoning and the Office of Planning to a number of agencies and organizations, seeking input. Advisory Neighborhood Commission 2B held a public meeting to discuss the proposal. The Applicant's legal counsel was present to discuss the proposal and answer questions. The Historic Preservation Review Board held a public meeting at which time the proposed exterior improvements were reviewed and approved.

For all of the above reasons, the Board found that adequate notice of the application and the hearing has been given, and that a waiver will not prejudice the rights of any person with an interest in the application. The Board ordered that a Notice of Proposed Rulemaking be published in the July 25, 1997 edition of the D.C. Register, indicating that final action will be taken in not less than 30 days from the date of publication. The Board

allowed the applicant to proceed with the presentation on July 16, 1997, with a decision on the application to be made at the Board's September 3, 1997 public meeting.

**APPLICATION**

The subject site is triangular in shape, and is located at the intersection of New Hampshire Avenue, 18<sup>th</sup> Street and Q Street, N.W. The site measures 6,388 square feet in land area, and is occupied by two basement plus 4-story brick buildings that were constructed in the late 19<sup>th</sup> century. The buildings were joined into one building subsequent to the BZA's approval in Order No. 12844. The single combined building contains approximately 17,030.5 square feet of gross floor area, and is occupied as the headquarters of the National Association of Retired Federal Employees (NARFE).

The property is in the triangular square bounded by New Hampshire Avenue, Q, 18<sup>th</sup> and P Streets and Dupont Circle. The property is located in the Dupont Circle Historic District, and is in close proximity to the Connecticut Avenue commercial corridor.

The property is zoned DCOD/SP-1. Chanceries are permitted in the SP zone pursuant to the Foreign Missions Act. Other SP uses in the square include the Chancery of Slovenia, the Hong Kong Economic and Trade Affairs Mission, the Washington Club, the former Chancery of Iraq and several nonprofit and institutional offices. The southern half of the square along New Hampshire Avenue is zoned DCOD/C-3-C, and includes an 8-story office/retail building known as 11 Dupont Circle, plus several townhouse office buildings. There are no residential uses in the square.

Across New Hampshire Avenue are the chanceries of Jamaica and Argentina. There are at least 13 other chanceries in close proximity to the subject site. The Dupont Plaza Hotel and the Woman's National Democratic Club are also located across New Hampshire Avenue from the subject site. The neighborhood includes a mix of nonprofit and commercial office, institutional, educational, church, hotel, chancery, club, retail and residential uses.

The Embassy's offices are presently located in leased space at the Intelsat building, at Connecticut Avenue and Van Ness Street. The Embassy is the contract purchaser of the subject property, and intends to use it for chancery purposes. The building measures 17,030.5 square feet of gross floor area. There is a parking lot on site which accommodates 9 cars.

The building is suitable for the proposed chancery use. The building has been used for over 20 years as the headquarters of the National Association of Retired Federal Employees. NARFE occupied the building at 1533 New Hampshire Avenue as a matter-of-right and obtained BZA approval for expansion for stairways, mechanical space and elevator in Order No. 10874, dated November 11, 1971. NARFE then purchased and occupied 1531 New Hampshire Avenue pursuant to BZA Order No. 12844, dated May 3, 1979. The two buildings were then connected as one on the interior. NARFE has had as many as 90 employees working in the building, and presently has a staff of 74 at the site.

The Embassy will install a flagpole, plaque and official seal on the exterior of the building. The Embassy will also install a new wrought iron fence and landscaping around the parking area and along the 18<sup>th</sup> Street frontage, and a new entranceway and facade on the north side of the building, to cover the existing blank wall. These items have been reviewed and approved by the Historic Preservation Review Board as consent calendar items at their June 26, 1997 meeting.

The proposed use by the Embassy of Botswana will continue to be low in intensity. Currently, the Embassy has 10 diplomats and 7 nondiplomatic staff. That number may increase by up to 4 people in the foreseeable future, with up to a maximum of approximately 25 diplomats and staff in the long-term future.

The typical hours of operation of the Embassy are 9:00 a.m. to 5:00 p.m., Monday through Friday. The Embassy receives on average approximately 5 visitors per day for diplomatic business. This number is not expected to increase at the new site. Citizens of the United States and Canada do not need visas to travel to Botswana. Most business with the public is conducted by

mail, telephone, telecopy or messenger. Most visitors to the Embassy will continue to use taxi, Metro and other public transportation. The new site is located 2 blocks east of the Dupont Circle Red Line Metrorail Station. The taxi stand for the Dupont Plaza Hotel is located across New Hampshire Avenue.

Moreover, both the present and proposed locations are adjacent to major thoroughfares with ready access to Metro and taxis, so the current modes of visitor travel are expected to continue.

The subject site has parking for 9 cars. On a daily basis, 6 diplomatic vehicles and 3 nondiplomatic vehicles will be driven to the site. In the event additional parking becomes necessary in the future, there are 11 off-street parking facilities in the vicinity, 5 of which are within 2 blocks. In addition, there are a number of bus lines traveling in both directions on Connecticut and Florida Avenues, and the Metrorail station is 2 blocks away.

A chancery in the DCOD/SP-1 zone is a permitted use subject to FMBZA disapproval after review based upon the six criteria enumerated in Section 206(d) of the Foreign Missions Act and Section 1001 of the Zoning Regulations.

#### **FOREIGN MISSIONS ACT CRITERIA**

In considering the subject application, the Board must apply the specific criteria set forth in Section 1001, et seq., of Chapter 10 of the Zoning Regulations. A chancery shall be a permitted use in the Mixed Use Diplomatic District, subject to disapproval by the Board based on those criteria, which are as follows:

1. Section 1001.2. The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.
2. Section 1001.3 and 1001.4. Historic preservation, as determined by the Board in carrying out this Section; and in order to ensure compatibility with historic landmarks and historic districts, substantial compliance with District and federal regulations governing historic preservation shall

be required with respect to new construction and to demolition of or alteration to historic landmarks.

3. Section 1001.5. The adequacy of off-street or other parking, and the extent to which the area will be served by public transportation to reduce parking requirements, subject to any special security requirements that may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.
4. Section 1001.6. The extent to which the area is capable of being adequately protected, as determined by the Secretary of State after consultation with federal agencies authorized to perform protective services.
5. Section 1001.7. The municipal interest, as determined by the Mayor.
6. Section 1001.8. The federal interest, as determined by the Secretary of State.

#### **EVALUATION**

With respect to the above-referenced six criteria set forth in the Zoning Regulations, the Board states as follows:

1. The international obligation of the United States:  
By letter dated June 6, 1997, the Deputy Director of the Office of Foreign Missions, the delegated representative of the Secretary of State, determined that favorable action on the present application would fulfill the international obligation of the United States to facilitate the acquisition of adequate and secure premises by the Government of the Republic of Botswana for its diplomatic mission in Washington.
2. Historic preservation: The 4-story plus basement

masonry building is located in the Dupont Circle Historic District, but is not a historic landmark.

The historic character of the building is an asset to both the neighborhood and to the Embassy, and will be maintained as such. The blank north wall will be replaced with an architecturally and historically compatible facade. The existing chain link fence surrounding the parking lot will be replaced by a wrought iron fence and landscaping. A flagpole, plaque and coat of arms will also be added to the New Hampshire Avenue facade of the building. By memorandum received on July 1, 1997, the Chief of the Historic Preservation Division reported that the Historic Preservation Review Board (HPRB) recommended approval of the Embassy's proposed facade alterations as well as landscaping and screening of the parking lot as being compatible with the structure and the historic district. The Board concurs with this recommendation. Accordingly, there will be no adverse impact on the historic preservation objectives of the District of Columbia.

3. Parking and transportation: The building was constructed prior to 1958. Under Chapter 21 of the Zoning Regulations, the parking requirement for chanceries in the SP District is one space for each 1,800 square feet of gross floor area with a credit for the first 2,000 square feet. However, the building is exempt from that requirement as a contributing building in a historic district under Section 2100.5 of the Zoning Regulations.

There are 9 automobiles associated with the operation of the chancery, and this will continue into the foreseeable future. Given the excellent supply of public transportation within two blocks of the site, Embassy personnel who do not come by car will continue to be able to utilize public transportation to travel to and from work. There is space for 9 vehicles on site. There are 11

commercial parking facilities in the vicinity to accommodate any future demand for more parking spaces, if this becomes necessary.

The chancery receives very little diplomatic visitor traffic (an average of 5 visitors per day). All forms of business conducted by the public with the Embassy are typically conducted by mail, messenger, telephone or telecopy.

As noted by the Office of Planning and the Applicant's own expert transportation witness, the subject site is extremely well served by public transportation. The site is located 2 blocks east of the Dupont Circle Red Line Metrorail station at 20<sup>th</sup> and Q Streets. In addition, there are numerous bus lines traveling in both directions along Massachusetts Avenue. Further, taxis are typically also available on a regular basis in the area, and there is a taxi stand across the street at the Dupont Plaza Hotel. Finally, there is a supply of short-term parking available in the neighborhood for visitors.

The Board finds that, given the low density of the proposed use as compared to the present use, it is reasonable to conclude that any other use of this property would involve at least as many, if not more, vehicles. The Board also finds that the proposed chancery use will not create an objectionable impact on traffic and parking in the neighborhood due to the small number of personnel who drive to work, the large amount of public transportation, and the low number of visitors to the chancery.

By letter dated June 6, 1997, the Deputy Director of the Office of Foreign Missions of the U.S. Department of State, on behalf of the Secretary of State, has determined that this application meets the requirements of 22 U.S.C. Section 4306(d)(3), in that there are no special security requirements



relating to parking requirements for the proposed use by the Embassy of Botswana.

4. Protection: The Office of Foreign Missions, in its letter dated June 6, 1997, determined that pursuant to 22 U.S.C. Section 4306(d)(4), the site and the area is capable of being adequately protected.
5. Municipal interest: The Director of the Office of Planning (OP) for the District of Columbia, the delegated representative of the Mayor, by memorandum dated July 3, 1997, determined that the Apple-cant has met the burden of proof under Section 1001 and 1002 of the Zoning Regulations relative to the location of the proposed chancery in a DCOD/SP-1 zone district. OP is of the opinion that the location of the chancery as proposed is compatible with other existing uses in the general area, and recommends approval of the application. There was no opposition to the application, either at the public hearing or in the record. The Board finds that the proposed chancery is in an area predominated by a mix of diplomatic, office, club, church, hotel, institutional, educational, retail and residential uses, and that the proposed use will be compatible with other uses in the historic district and in the area.
6. Federal interest: By letter dated June 6, 1997, from the Deputy Director, and by testimony of the Legal Counsel, the Office of Foreign Missions has determined that the location of the chancery for the Republic of Botswana at 1531-33 New Hampshire Avenue, N.W. is consistent with the federal interest. The United States Government owns property in Gaborone and has enjoyed the support and cooperation of the Government of Botswana over the years in the management of its real estate interests.

**ADVISORY NEIGHBORHOOD COMMISSION**

The subject site is located within the boundaries of Advisory Neighborhood Commission (ANC) 2B. By letter dated July 10, 1997, ANC 2B unanimously recommended that the application be approved, on the condition that no on-street "diplomatic only" parking restrictions are requested. The Board notes that no request for on-street "diplomatic only" parking was included in this application. Moreover, the Board does not have jurisdiction to approve or disapprove on-street "diplomatic only" parking.

The Board concludes that it has accorded "great weight" to the issues and concerns of the ANC.

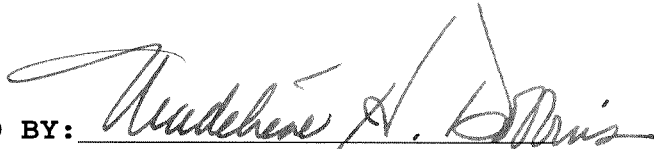
**DECISION**

On the basis of the record before it, the Board has determined that this application satisfies the criteria set forth in Section 1001 of Chapter 10 of the Zoning Regulations. Accordingly, it is **ORDERED** that this application be **NOT DISAPPROVED**.

VOTE: 4-0 (Sheila Cross Reid, Betty King and Laura M. Richards not to disapprove, and to adopt the proposed order; John G. Parsons not to disapprove by absentee vote; Reginald Griffith not present, not voting, not having heard the case).

**THIS ORDER WAS ADOPTED BY THE BOARD OF ZONING ADJUSTMENT AT ITS PUBLIC MEETING OF SEPTEMBER 3, 1997.**

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

ATTESTED BY: 

**MADELIENE H. DOBBINS  
Director**

**FINAL DATE OF ORDER:**

SEP 26 1997

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THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS UNLESS  
WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR  
CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER  
AND REGULATORY AFFAIRS.

ord16262/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



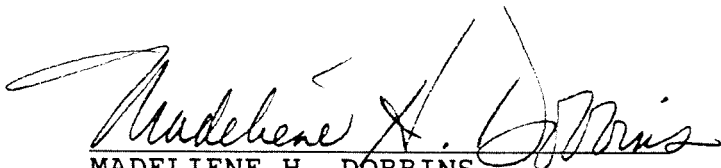
BZA APPLICATION NO. 16262

As Director of the Board of Zoning Adjustment, I certify and attest that on SEP 26 1997 a copy of the order entered on that date in this matter was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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Director

DATE: SEP 26 1997